

## REMARKS

In accordance with the foregoing, claims 1, 4, 6, 10, 13, 15, and 18-21 are amended. No new matter is being presented, and approval and entry of the amended claims are respectfully requested.

Claims 1-8 and 10-21 are pending. Reconsideration is requested.

### Claim Amendments

Claim 1 is amended herein to recite a local area information terminal including "a channel retrieving unit determining a free channel and retrieving the free channel through which no broadcasting is being conducted, by using a tuner in conjunction with a microprocessor, among broadcasting channels allocated to respective frequency bandwidths." Claims 4, 6, 10, 13, 15, and 18-21 are similarly amended.

Support for the amendments is found, for example, in FIG. 2 and page 12 of the specification. No new matter is being presented, and approval and entry of the amended claims are respectfully requested.

### Traverse Of Rejections

The Examiner rejects claims 1-8 and 10-21 under 35 U.S.C. §103(a) as being unpatentable over Ghorri (U.S.P. 6,282,714) in view of combinations of Hamalainen (U.S.P. 5,729,541), Maillet (U.S.P. 3,649,764), McMullan (U.S.P. 5,225,902), Spaur (U.S.P. 5,732,074), Chang (U.S.P. 5,974,449), and Lange (U.S.P. 4,555,806). The rejections are traversed.

#### I. Recited Features Not Taught by Cited Art, Alone or in Combination

Independent claim 1, as amended herein, recites a local area information terminal including "a channel retrieving unit (1) determining a free channel and (2) retrieving the free channel through which no broadcasting is being conducted, by (3) using a tuner in conjunction with a microprocessor, among broadcasting channels allocated to respective frequency bandwidths; a channel selecting unit making, when there exist a plurality of free channels, a transmitter automatically select a free channel starting from a lower-number channel; and a transmitting unit transmitting the file as broadcasting data stored in said file storing unit to within a local area via the selected channel, wherein the channel comprises a bandwidth defined per frequency of the broadcasting (emphasis added)." Independent claims 4, 6, 10, 13, 15, and 18-21, all as amended herein, have similar recitations.

Applicant submits that none of the cited art, alone or in combination, discuss "a channel retrieving unit (1) determining a free channel and (2) retrieving the free channel through which no broadcasting is being conducted (emphasis added)" as recited by the independent claims 1, 4, 6, 10, 13, 15, and 18-21.

The Examiner contends "claims merely require a channel retrieving unit retrieving a free channel through which no broadcasting is being conducted by using a tuner." (Action at page 2).

However, Applicant respectfully submits that as amended herein, using claim 1 as an example, the channel retrieving unit makes the determination as to what is the free channel.

Further, none of the cited art, alone or in combination, discusses that such determining is "(3) by using a tuner in conjunction with a microprocessor (emphasis added)."

## **II. Examiner's Statements Not Properly Supported**

The Examiner makes the statement that:

Hamalainen inherently uses a tuner to retrieve the free channels, as Hamalainen uses radio communications for transmission (GPRS, GSM, column 6, lines 27-32, column 7, lines 10-31), and a tuner is required to receive a radio frequency channel.

(Action at page 6).

In support of a motivation for the *arguendo* combinations, the Examiner makes the statement that one of ordinary skill in the art would have modified Ghori with Hamalainen to reduce collisions since "the result of a collision is generally a garbled message." (Action at page 3).

Applicant submits the Examiner's statements are not properly supported. As set forth in M.P.E.P. § 2144.03 the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute."

Further, the Examiner is required under 37 C.F.R. §1.104(d)(2) to support such assertions, if made upon personal knowledge with an affidavit when called for by the Applicant.

Accordingly Applicant demands that the Examiner provide proper support for his statements, or if the same are based on personal experience affidavit(s) regarding the same.

## **III. Dependent Claims Separately Recite Features Not Taught By The Cited Art**

Further, features recited by the dependent claims are separately not taught by the cited art. Dependent claims 2, 5, 11, 12, and 14 each further recite a cipher processing unit. Applicant submits that such a cipher processing unit is not taught by the cited art.

The Examiner relies on the discussions of Ghori regarding encryption in rejecting this feature.

However, Ghori discusses (see, for example col. 7, lines 20-33):

spread spectrum transceivers utilize a form of radio transmission in which the signal is distributed over a broad frequency range. This distribution pattern is based on either direct sequence coding or frequency hopping. In direct sequence coding, the information to be transmitted is modified by a multi-bit

binary chipping code, which spreads the signal out over a broader frequency range. . . . Alternatively, in frequency hopping, a transmitter transmits at a particular frequency for a short time interval, then switches to another frequency for another short interval, and so on.

That is, Applicant submits the discussions of Ghori regarding encryption are incompatible with the features recited by each of the respective parent claims, using claim 1 as an example, of a terminal including a "channel selecting unit making, when there exist a plurality of free channels, a transmitter automatically select a free channel starting from a lower-number channel."

That is, Applicant submits that one of ordinary skill in the art would not look to modify a system using spread spectrum or frequency hopping for encryption in a terminal that "automatically select(s) a free channel starting from a lower-number channel."

### Summary

Since features recited by independent claims 1, 4, 6, 10, 13, 15, and 21 (and respective dependent claims 2-3, 5, 7, 11-12, 14, and 1620) are not discussed by the cited art, alone or in combination, and there is no motivation to combine the art in a manner as the Examiner contends, *prima facie* obviousness is not established, the rejections should be withdrawn and claims 1-8 and 10-21 allowed.

### CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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